

**AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
ORDER BY CONSENT
ISSUED TO
Chaparral (Virginia) Inc.
Registration No. 51264**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1309 and §10.1-1316, between the Air Pollution Control Board and Chaparral (Virginia) Inc., for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Chaparral Steel ” means Chaparral (Virginia) Inc., certified to do business in Virginia.

7. "Facility" means the Chaparral Steel facility located at 25801 Hofheimer Way in Dinwiddie County, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "Permit" means the construct and operate permit, which became effective on April 24, 1998 and was amended on May 17, 2000.
10. "NOx" means Oxides of Nitrogen.
11. "CO" means Carbon Monoxide.
12. "CO₂" means Carbon Dioxide.
13. "BACT" means Best Available Control Technology.
14. "CEMS" means Continuous Emission Monitoring System.
15. "CFR" means Code of Federal Regulations.

SECTION C: The Department's Findings of Fact and Conclusions of Law

1. Chaparral Steel owns and operates a steel recycling facility in Dinwiddie County, Virginia. This facility is the subject of a Construct and Operate permit issued on May 17, 2000. Permit Condition number 11 established the operation and use of the external combustion chamber, having a post combustion burner rated at 20.5 MMBtu/hour, to provide the time, temperature, and mixing conditions necessary to maximize the conversion of CO to CO₂ as BACT as required by 9 VAC 5-80-1800 B. Review of the facilities operation during the September 11, 2001 inspection and subsequent information provided to DEQ (letter dated September 17, 2001 from Chaparral Steel), documented that the burners of the post combustion chamber were not being operated during the operation of the electric arc furnace (EAF).
2. Start-up of the Facility was June 5, 1999. The Facility requested a delay in the initial performance test due to the need for additional ramp-up time. The initial performance test was performed May 15-18, 2000, as required by Condition number 28 of the Permit, to determine compliance with the emission limits contained in Condition 13 of the Permit. The initial performance test was conducted at 30% of the maximum production level.
3. In a letter dated July 20, 2001, the Department requested an additional performance test using the Post Combustion Chamber and operating at a higher production rate.

4. On December 2-9, 2001, the Facility conducted a second performance test. The results of the December 2-9, 2001 performance test documented potential exceedances for NOx and CO.
5. A Notice of Violation was issued to Chaparral Steel on March 24, 2003. The Notice of Violation was based on information obtained by the Department during air inspections dated September 11, 2001, December 3 and 5, 2001 and July 19, 2002 and performance tests performed in May 2000 and December 2001.
6. A meeting was held with Chaparral Steel and Department staff on April 8, 2003, to discuss the March 24, 2003 Notice of Violation.
7. DEQ's review of data from the December 2-9, 2001 stack test documented that test run number 4 was not conducted in accordance with 9 VAC 5-50-30 C. DEQ evaluated Chaparral Steel's compliance with Permit Condition number 13 using test run numbers 3 and 5 in accordance with 9 VAC 5-50-30 E. This evaluation of run numbers 3 and 5 indicated emissions were greater than the NOx limits of 150.5 lbs/hr in the Permit Condition number 13 while operating the post combustion chamber burners.
8. On December 2-9, 2001 Chaparral Steel performed a stack test as requested by PRO by letter dated July 20, 2001. The analysis of the stack test, production data and operating hour data submitted by Chaparral Steel documented an exceedance of Condition 13 of the May 17, 2000 permit for Carbon Monoxide (CO) based on a 24 hour average.
9. Meetings were held with Chaparral Steel and Department staff on July 2, 2003 and October 6, 2003 to discuss the resolution of the Notice of Violation issued by the Department on March 24, 2003.

SECTION D: Agreement and Order

Accordingly, the State Air Pollution Control Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders Chaparral Steel to perform, and Chaparral Steel agrees to perform, the actions described in Appendix A of this Order. In addition, the Board orders Chaparral Steel, and Chaparral Steel voluntarily agrees to pay, a civil charge of One Hundred Thirty Seven Thousand Five Hundred Dollars (\$137,500.00) within 60 days of the effective date of this Order, by check payable to the "Treasurer of Virginia," delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Chaparral Steel shall record its Federal Tax Identification number on the check.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Chaparral Steel, for good cause shown by Chaparral Steel, or on its own motion after notice and opportunity to be heard.
2. This Order addresses and resolves DEQ's claims arising from those violations alleged herein and in the Notice of Violation issued to Chaparral Steel on March 24, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. Chaparral Steel admits the jurisdictional allegations set forth in this Order, but does not admit any of the factual allegations or conclusions of law set forth herein. For purposes of this Order and subsequent actions with respect to this Order, Chaparral Steel agrees not to challenge the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Chaparral Steel consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Chaparral Steel declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Chaparral Steel to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Chaparral Steel shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Chaparral Steel

shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Chaparral Steel shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Chaparral Steel.
11. This Order shall continue in effect until the Director or Board terminates the Order (i) in his or its sole discretion upon 30 days written notice to Chaparral Steel or (ii) Chaparral may request the Director or Board terminate the Order after Chaparral Steel has made all payments required hereunder and satisfactorily completed the tasks set forth in Appendix A hereof. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Chaparral Steel from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Chaparral Steel voluntarily agrees to the issuance of this Order.

And it is so ORDERED this ____ day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

Chaparral Steel voluntarily agrees to the issuance of this Order.

By: _____

Timothy J. Bourcier
Vice President, Operations-Steel

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 2004, by Timothy J. Bourcier, who is Vice President, Operations-Steel of Chaparral (Virginia) Inc., on behalf of the Corporation.

Notary Public

My commission expires: _____

APPENDIX A

1. Chaparral Steel shall submit a complete Form 7 permit application to the Department within 90 days from the effective date of this Order that seeks to modify the Permit. The permit application shall include all documents and supporting data required by 9 VAC 50-80-1150 and 9 VAC 5-170-160. Among other things, the permit application shall include or otherwise address the following:
 - a. Installation of CEMS and flow monitor to measure the emission rates in pounds per hour for CO and NO_x. These monitors shall be installed and operated in accordance with all applicable requirements contained in 40 CFR § 60.13 and the applicable Appendices of 40 CFR Part 60, including the applicable Performance Specifications stated in such Appendices.
 - b. Installation of CEMS for CO, NO_x and flow monitor shall commence no later than 60 days from the effective date of this Order. "Commence" as used in the preceding sentence means entering into binding agreements or contractual obligation, which cannot be canceled or modified without substantial loss to Chaparral Steel, to install and operate CEMS for CO and NO_x.
 - c. Within 30 days of commencing installation of CEMS for CO, NO_x, and flow monitor, Chaparral Steel shall provide the Department with a schedule outlining installation milestone dates.
 - d. Within 60 days after completing the installation of the CEMS for CO, NO_x and flow monitor Chaparral Steel shall begin actual operation of the CEMS.
 - e. Initial certification of CEMS for CO, NO_x and flow monitor shall be performed no later than 60 days after the issuance date of the Permit or 10 months after the effective date of this Order, whichever comes later. In the event testing shows that CEMS for CO, NO_x or flow control does not conform to the applicable Performance Specifications, Chaparral Steel shall submit to the Department a written report explaining why Chaparral Steel believes this occurred and a compliance plan for approval by the Department stating how it intends to address the deficiencies and perform additional initial certification testing. The report and compliance plan shall be submitted within 60 days after the test completion date documenting Chaparral Steel's CEMS did not meet applicable Performance Specifications.
 - f. If Chaparral Steel decides to request a change in BACT for any or all applicable pollutants from what is currently required by the Permit, a complete BACT analysis shall be performed.
2. Chaparral Steel shall submit for approval within 30 days from the effective date of this Order a Compliance Operating Plan describing how it intends to operate the Electric Arc Furnace and the shaft burners to minimize emissions of CO and NO_x pending issuance of the Permit modification.